

**Moore&VanAllen**

December 11, 2015

**VIA US MAIL & EMAIL**

Michael Bulleri, Assistant Attorney General  
Waste Management  
North Carolina Department of Justice  
PO Box 629  
Raleigh, NC 27602

RE: Haz-Mat/15EHR06202

Dear Michael:

As we've discussed, I am forwarding two (2) completely executed copies of the Settlement Agreement in the referenced contested case. I will file a formal notice of dismissal with the Office of Administrative Hearings as well.

Thanks for your assistance in this matter. Please let me know if you have any questions.

Yours very truly,

MOORE & VAN ALLEN PLLC



Peter J. McGrath Jr.

PJM/vl

Enclosures

cc: Neil Danzinger

**RECEIVED**  
DEC 16 2015  
N.C. ATTORNEY GENERAL  
Environmental Division

**Peter J. McGrath Jr.**  
Attorney at Law

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100 North Tryon Street  
Charlotte, NC 28202-4003

IN THE OFFICE OF  
ADMINISTRATIVE HEARINGS  
15 EHR 06202

# SETTLEMENT AGREEMENT

The instant matter arose out of the issuance of a Short-Form Compliance Order with Administrative Penalty in Docket No. 2015-030 (“the Order”), by the Section against Haz-Mat on July 24, 2015, for alleged violations of the laws and rules governing the management of hazardous waste, as contained in Article 9 of Chapter 130A of the North Carolina General Statutes, and the rules promulgated thereunder and codified in Subchapter 13A of Title 15A of the North Carolina Administrative Code (collectively “the State Hazardous Waste Program”).

<sup>1</sup> The North Carolina Department of Environment and Natural Resources has been renamed the Department of Environmental Quality effective 18 September 2015.

The Parties participated in an informal settlement conference on September 25, 2015. Based on information presented during and subsequent to that settlement conference, and in order to avoid the cost and delay of litigation, the Section and Haz-Mat have reached the following agreement:

1. This Settlement Agreement is a negotiated compromise between the Parties. Neither this Settlement Agreement nor any action on the part of the Parties hereto shall be deemed an admission of liability with regard to the alleged violations of the State Hazardous Waste Program cited in the Order, incorporated herein by reference.
2. Haz-Mat shall pay to the Section a recomputed penalty in the amount of fifteen thousand dollars (\$15,000.00) in settlement of the penalty assessed in the Order. The Section agrees to accept the payment of the recomputed penalty in complete satisfaction of the original penalty assessed in the Order, subject to the terms of this Settlement Agreement. Haz-Mat shall pay the recomputed penalty in one installment within thirty (30) days of the execution of this Settlement Agreement.
3. In accordance with N.C.G.S. § 130A-22(j), and as outlined in Paragraph 3 of the “Conditions for Continued Operation” section of the Order, the Section also assessed investigative and inspection costs to Haz-Mat totaling one thousand seven hundred fifty-five dollars and eighty-three cents (\$1,755.83). Haz-Mat shall pay these costs to the Section in one installment within thirty (30) days of the execution of this Settlement Agreement.
4. The payments required under Paragraphs 2 and 3 of this Settlement Agreement shall be made by certified check or money order, payable to the Division of Waste Management, and mailed to Julie S. Woosley, Chief, Hazardous Waste Section, 1646 Mail Service Center, Raleigh, NC 27699-1646.

5. Haz-Mat expressly waives its right to an administrative hearing on the Order. Within ten (10) days of the full execution of this Settlement Agreement, Haz-Mat shall file with the Office of Administrative Hearings a Notice of Dismissal with Prejudice, withdrawing its Petition for a Contested Case Hearing in *Haz-Mat Environmental Services, LLC v. Hazardous Waste Section, Division of Waste Management, N.C. Department of Environment and Natural Resources*, 15 EHR 06202.
6. Haz-Mat expressly stipulates and acknowledges that, by entering into this Settlement Agreement, it waives for purposes of collection of the above-described recomputed penalty, fees, and costs any and all defenses to the underlying assessment of said penalty, fees, and costs, and that the issue in any action to collect the penalty, fees, or costs will be limited to the payment or non-payment thereof in accordance with the terms of this Settlement Agreement.
7. Nothing in this Settlement Agreement shall restrict the right of the Section to inspect Haz-Mat and take enforcement action against Haz-Mat for any new, subsequent or repeat violations of the State Hazardous Waste Program. It is further understood that Haz-Mat may contest any subsequent enforcement action based on allegations of new, subsequent or repeat violations, to the extent such right is provided in Chapter 130A of the North Carolina General Statutes.
8. Haz-Mat and the Section agree that each shall bear its own costs related to any disputes covered by this Settlement Agreement. Neither Haz-Mat nor the Section shall apply for attorney fees or costs under any rule or law, and neither shall be liable for any attorney fees, costs, or expenses incurred by the other, except as otherwise provided in this Settlement

Agreement.

9. Haz-Mat and the Section agree that the consideration for this settlement is in the promises contained herein, that this Settlement Agreement contains the whole agreement between them, and that there are no understandings or agreements, verbal or otherwise, regarding this Settlement Agreement except as expressly set forth herein.
10. This Settlement Agreement is contractual in nature and not just a recitation of terms. The language of this Settlement Agreement shall be construed, enforced, and governed by the laws of the State of North Carolina.
11. Each provision of this Settlement Agreement is intended to be severable, and if any provision is held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect or impair any other provision of this Settlement Agreement, but this Settlement Agreement shall be construed as if such invalid, illegal, or unenforceable provision had not been contained therein.
12. This Settlement Agreement shall be binding upon and inure to the benefit of the assigns, heirs, executors, and administrators of Haz-Mat and to the Section, its officials, managers, employees, assigns, predecessors, and successors.
13. This Agreement shall be binding upon the Parties upon execution by the undersigned. The Agreement becomes effective on the last date of the signatures of the undersigned.
14. The corporate officer signing on behalf of Haz-Mat hereby warrants that he is competent to enter into this Settlement Agreement, that he has authority to enter into this Settlement Agreement on behalf of Haz-Mat, and that no court or tribunal of competent jurisdiction has found him to be incompetent or otherwise incapable of handling his business affairs or

entering into a binding agreement or contract.

15. The undersigned representative of Haz-Mat hereby acknowledges that he has read this Settlement Agreement, conferred with his attorney or had the opportunity to confer with an attorney, fully understands the contents of the Settlement Agreement, consents to the settlement of claims on the terms set forth herein, and does so in reliance upon his own judgment and, if represented by counsel, the advice of his attorney, and not in reliance on any other representations or promises of the Section, its representatives, or its attorneys.

THE PARTIES ACKNOWLEDGE THAT EACH HAS CAREFULLY READ THIS ENTIRE AGREEMENT AND FULLY UNDERSTANDS ITS CONTENTS AND ITS LEGAL AND BINDING EFFECT. EACH PARTY FURTHER ACKNOWLEDGES THAT EACH MAKES A KNOWING AND VOLUNTARY WAIVER OF THEIR RIGHTS IN EXCHANGE FOR THE CONSIDERATION SPECIFIED IN THIS AGREEMENT.

IN WITNESS WHEREOF, this Settlement Agreement is executed in duplicate originals:

FOR THE NORTH CAROLINA DEPARTMENT OF  
ENVIRONMENT AND NATURAL RESOURCES:

Julie S. Woosley  
Julie S. Woosley  
Chief, Hazardous Waste Section  
Division of Waste Management

11/18/15  
Date

NORTH CAROLINA  
County of WAKE

I, Kelly B. Galantis, a Notary  
Public for said County and State, do hereby certify  
that Julie S. Woosley  
personally appeared before me this day, is personally  
known to me or provided official identification in the  
form of Personally Known, and  
acknowledged the due execution of the foregoing  
instrument.

Witness my hand official seal, this the 18 day of  
November, 2015.

Kelly B. Galantis  
Notary Public  
KELLY B. GALANTIS  
Notary Public  
(Official Seal) Johnston County, NC  
My Commission Expires 8-27-18  
My Commission expires: 8-27-18

FOR HAZ-MAT ENVIRONMENTAL SERVICES,  
LLC:

Neil Danziger  
Name Neil Danziger  
Title GM  
Haz-Mat Environmental Services, LLC

12/1/15  
Date

State of North Carolina  
County of Mecklenburg

I, Jill Duncan, a Notary  
Public for said County and State, do hereby certify  
that Neil Danziger  
personally appeared before me this day, is personally  
known to me or provided official identification in the  
form of Personally Known, and  
acknowledged the due execution of the foregoing  
instrument.

Witness my hand official seal, this the 1<sup>st</sup> day of  
December, 2015.

Jill Duncan  
Notary Public  
(Official Seal) My Comm. Expires  
March 26, 2019  
MECKLENBURG COUNTY, NC  
My Commission expires: March 26, 2019